

### **REMARKS**

Claims 1-7, 9-21, 23, 24, 26, and 27 are all the claims pending in the application. By this Amendment, Applicant amends claim 1 to further clarify the invention.

#### **I. Summary of the Office Action**

Claims 1-7, 9, 16, 23, 24 and 27 presently stand rejected and claims 10-15, 17-21, and 26 remain allowed.

The Examiner withdrew the previous grounds of rejections. The Examiner, however, found new grounds for rejecting the claims. In particular, claims 1, 23, and 24 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,367,523 to Chang et al. (hereinafter “Chang”) in view of a newly found reference, U.S. Patent No. 6,657,961 to Lauffenburger et al. (hereinafter “Lauffenburger”), claims 2, 4, 6, 7, 9, 16, and 27 are rejected under 35 U.S.C. § 103(a) as being obvious over Chang in view of U.S. Patent No. 6,891,851 to Demakakos (hereinafter “Demakakos”) and Lauffenburger, and claims 3 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chang, Demakakos, and Lauffenburger in view of U.S. Patent No. 6,963,538 to Giroux et al. (hereinafter “Giroux”).

#### **II. Prior Art Rejections**

Claims 1, 23, and 24 are rejected under 35 U.S.C. § 103(a) as being obvious over Chang in view of a newly found reference Lauffenburger and claims 2, 4, 6, 7, 9, 16, and 27 are rejected under 35 U.S.C. § 103(a) as being obvious over Chang and Demakakos in view of Lauffenburger. Applicant respectfully traverses these grounds of rejections at least in view of the following exemplary comments.

Of these rejected claims, only claims 1 and 2 are independent. Independent claim 1 *inter alia* recite: “wherein said communications network is a heterogeneous network comprising at least two different networks at least one of which is not configured to perform available bit rate control technique, and wherein the data sink initiates said reporting of the network status information to said data source without a request from said data source” and independent claim 2 recites: “wherein said at least two different networks comprise a packet network and a frame relay network, and wherein the data sink initiates said reporting of the network status information to said data source without a request from said data source.”

The Examiner acknowledges that Chang and Demakakos do not disclose or suggest the data sink initiating the report (*see* pages 2-3 of the Office Action and Statement of Substance of Interview, previously filed). The Examiner, however, alleges that Lauffenburger cures the above-identified deficient disclosures of Chang and Demakakos. Applicant respectfully disagrees.

Lauffenburger is no different from the conventional techniques in that it discloses a system and method for controlling data flow in an available bit rate asynchronous transfer mode ATM network using resource management (RM) cells. Although Lauffenburger discloses unsolicited RM cells, these cells are part of available bit rate (ABR) technique. In other words, Lauffenburger discloses unsolicited cells in the ABR ATM network (*see* Abstract; col. 2, lines 19 to 34 and lines 51 to 55; col. 4, lines 49 to 58). In short, Lauffenburger fails to disclose or suggest having unsolicited RM cells in a heterogeneous network environment.

Moreover, the proposed combination is unworkable. If at least one network is not configured to perform available bit rate control technique as set forth in claim 1 *e.g.*, the frame relay network set forth in claim 2, then Lauffenburger’s unsolicited RM cells cannot be used at

least because they are designed and are used in the ABR ATM environment. In short, the combination proposed by the Examiner is unworkable because Lauffenburger's unsolicited RM cells cannot be included in a network that does not support ABR.

Therefore, for at least these exemplary reasons, Applicant respectfully submits that claims 1 and 2 are patentable over Chang, Demakakos in view of Lauffenburger, which lack having the sink initiate the report in a network that does not support ABR technique or in a network that includes a frame relay network. Accordingly, it is appropriate and necessary for the Examiner to withdraw this rejection of claims 1 and 2 and their dependent claims 4, 6, 7, 9, 16, 23, 24, and 27.

Claims 3 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chang, Demakakos, and Lauffenburger in view of Giroux. This rejection is traversed at least in view of the following exemplary comments. Claims 3 and 5 depend on claim 2. It was already demonstrated that Chang in view of Demakakos and Lauffenburger do not disclose or suggest the unique features of claim 2. Giroux is only cited for its disclosure of the data sink being a line termination and as such does not cure the above-identified deficiencies of Chang, Demakakos, and Lauffenburger. Accordingly, claim 2 is patentable over the prior art of record. Claims 3 and 5 are patentable at least by virtue of their dependency on claim 2.

### III. Allowable Subject Matter

Claims 10-15, 17-21 and 26 are allowed.

### IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Nataliya Dvorson/  
Nataliya Dvorson  
Registration No. 56,616

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: April 14, 2008